IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6438 of 1987

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

GUJARAT STATE TECHNIC TAILORING

Versus

STATE OF GUJARAT

Appearance:

MR BR PARIKH for Petitioner

MR PREMAL JOSHI FOR M/S PATEL ADVOCATES

for Respondent No. 1, 2, 3, 4

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 10/03/2000

ORAL JUDGEMENT

#. The petitioner association has challenged the resolution dated 22nd April, 1987, a copy of which is at Annexure-A to the petition, by which certain vocational courses including Women's and Children Garment making

were to be treated as part time course for vocational training imparted by various institutions. According to the petitioner, it is an association of such institutions. The grievance made by the petitioner is that because the vocational course run by the members of the petitioner association is treated as part time course, they were not entitled to grant.

#. It was argued on behalf of the petitioner that the resolution dated 22nd April, 1987 was issued only on 7th April, 1987 from the office of the State Government and in fact, it was despatched to the members of the petitioner association only around 24th April, 1987. According to the petitioner, they had already admitted the students for the course in the 2nd week of July, 1987 for the new term. It was contended that since the students were admitted on 14th July, 1987 and the communication was received later, the members of the petitioner continued to be entitled to the grant on the basis of the full time courses being run by the institution. It was also contended that the resolution was a fraud on the powers of the State Government because the courses which are declared as part time are in fact, full time courses and the resolution was therefore, arbitrary.

#. It is brought on record by way of the affidavit in reply filed on behalf of the State Government that the institutions that are members of the petitioner association were not assured of any financial assistance by the Government, and that the Department has recognized nearly 800 to 1000 such institutions out of which only 54 were given grant by department. It is further stated that the provisions are made by the Government only to give financial assistance to the poorer section by way of freeships, stipends etc. and accordingly the backward class students whose parents'' annual income is upto Rs.10,000/-, are eligible for such help. It is stated that there is no right either of the organizations or the students to get such assistance. It is also stated that this assistance is not provided to organizations. The Department has recognised certain courses of different durations and the Government took policy decision to designate the courses of 1000 hrs per year as full time courses. While the courses which were of 800 hrs per year or less duration out of which theory content is 30 % or less, are declared as part time courses. Accordingly only 8 courses were declared as part time courses out of 60 vocational courses.

#. It is clear that the declaration of the courses as

part time courses has been made after due consideration of the matter and it being a policy decision, it would not be appropriate for this Court to sit in judgment over the decision. As stated in para 9 of the affidavit in reply, the scholarships and stipends are awarded to the students individually by the Social Welfare Department and not to the members of the petitioner association. Only the disbursement of the stipends to the students is arranged by the organization. It is urged on behalf of the Government that it was not obligatory on the part of the Government to provide freeships and stipends as a matter of right or to give financial assistance to the institutions. The benefits are meant only for the backward class students whose parents' annual income is upto Rs,10,000/- and not for the institutions.

It is thus clear that the resolution has been issued on relevant grounds and in lawful exercise of administrative powers of the State Government of making policy decision, warranting no interference by this Court. The challenge against the impugned resolution can not therefore, be sustained.

#. As regards the grievance of the petitioner that its members had received a copy of the said resolution after the members had admitted the students for the courses, it is clear that the members of the petitioner association did not make any such grievance before the concerned authority about late receipt of the said Resolution. The resolution is dated 22nd April, 1987 and would operate from that date as the policy decision was already taken by the Government since there is no statutory requirement that such resolution would operate from any later date on satisfying any other formality. The members of the petitioner institution might have received the resolution on different dates but its efficacy will not depend on the dates on which the resolution was so received. The question whether the petitioner members had voluntarily admitted the students before the resolution was known to them is a question involving facts which cannot be examined in the present proceedings. The learned counsel appearing for the petitioner stated that recognition of one of the institutions of the petitioner was granted as per the letter which is produced at Annexure-F to the petition, for one year i.e. for the year 1987-88, and therefore, that member should be given grant. It is also stated by the learned counsel for the petitioner that similar recognition was granted to other members of the petitioner Association. Grant of recognition stands on a different footings and will have no bearing on the validity of the impugned resolution, which incorporates a

policy decision of the State Government. If the petitioner members had any right on the basis of recognition granted for the year 1987-88, they ought to have approached the concerned authorities in the matter. It is not established that on the basis of the such recognition, the members of the petitioner are entitled to any grant. The petition is mainly directed against the validity of the resolution which seems to be in order.

#. It is stated by the learned counsel for the petitioner that the petitioner will approach the concerned authority in respect of grant for the year 1987-88 on the ground that it had already admitted the students on the footing that it was a full time course, before the resolution was received by the members of the petitioner. The member of the petitioner may make such application as may be permissible under the law and it will be entirely for the concerned authority to consider the same and decide it as per the law.

#. In the above view of the matter, the petition is rejected. Rule is discharged with no order as to costs.

Date : 10-3-2000 [R.K.Abichandani, J.]

#kailash#